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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,717	06/04/2001	Roger Flores	PALM-3643 . US . P	6235

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EXAMINER
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BYLCIW, STEPHEN

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/874,717

Applicant(s)

FLORES ET AL.

Examiner

Stephen Bylcw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This non-final office action is in response to the patent application filed in the United States on 6/4/2001. Claims 1-29 are pending.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract is objected to because it exceeds 150 words. Appropriate correction is required. See MPEP § 608.01(b).
4. The disclosure is objected to because it contains embedded hyperlinks and/ or other forms of browser-executable code (for example: page 4, lines 11 and 19; and page 5, line 6). Applicant is required to delete the embedded hyperlinks and/ or other forms of browser-executable code. See MPEP § 608.01.

***Claim Objections***

5. Claim 26 (item a) is objected to because of the informality underlined: "receiving usage statistics... gathered be electronic devices." Examiner kindly recommends applicant replace the underlined "be" with "from." Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-4, 6-12, 14-18, 20-24, 26, and 28-29 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Benc Software Production's web page describing "Application Usage Hack 0.7" (2000).**

Regarding claims 1, 10, 16, 22, 26, and 28-29, Benc teaches a method and a system for monitoring application usage in one or many Palm Computing® organizer electronic devices (page 1, lines 1, 18-20) having a database of records (page 1, line 14) and each having a plurality of application programs (page 1, lines 2-5). The method comprises:

- Ability to gather usage statistics of application programs (page 1, lines 1-5).
- Ability to store usage statistics of application programs (page 1, line 14... teaches the ability to delete the stored statistics).

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- Ability to transmit/ export usage data/ statistics to be tabulated on a personal computer (page 1, lines 11-13 and 17-20).

Benc does not teach the method of:

- Transmitting usage statistics to a server that can tabulate and publish said statistics in a way that is accessible via database queries.

Official notice is taken that it is old and well known to a person of ordinary skill in the art at the time of invention that:

- A software program method able to transmit data to a host computer to be tabulated can be modified using widely known information technology to transmit the same information to a server for tabulating and publishing without user manual intervention.
- Information tabulated on a server database can be accessed via widely used database management routines such as receiving queries, applying queries to the database, receiving query results from database, formatting the results, and transmitting the formatted results to the screen.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Benc Software's usage application to create a system and method to gather and store usage statistics data from electronic device(s), and then transmit the

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data to a server to be tabulated and made accessible to widely used database management techniques for the advantage of analysis efficiency.

Regarding claims 2, 11, and 17, Benc teaches a method for monitoring application usage in one or a plurality of electronic devices. The method comprises for at least one application the storing of:

- Duration of usage since last transmission (page 1, lines 2-5).
- Number of times used since last transmission (page 1, lines 2-5).
- Total duration of usage (page 1, lines 2-5).

Official notice is taken that it would be well known to a person of ordinary skill in the art to calculate “total number of times used” (the cumulative value of number of times used) as the cumulative duration has been calculated from duration of usage since last transmission.

Regarding claims 3, 12, and 18, Benc teaches a method for monitoring application usage in one or a plurality of electronic devices. The method comprises:

- Displaying stored usage statistics on a display of electronic device (page 2, Window labeled “AppUsage;” page 3, Window labeled “AppUsage;” page 4, window labeled “AppUsage”).

Regarding claim 4, Benc teaches a method for monitoring application usage in one or a plurality of electronic devices. The method described comprises:

- Total duration of usage (page 1, lines 2-5). The literature describing the Benc device conveys to the Examiner the measurement of application usage duration as excluding the time the device is turned off.

Regarding claim 6, Benc teaches a method for monitoring application usage in one or a plurality of electronic devices. The method described comprises:

- Measuring usage data for applications and omitting the time when an interrupt pauses use of the applications (page 1, lines 2-5). The literature describing the Benc device conveys to the Examiner the measurement of application usage as excluding the time the application is interrupted because of a pause and thus the application is not in use.

Regarding claim 7, Official notice is taken that it is old and well known to one of ordinary skill in the art at the time of invention that application usage is a fraction of the duration of time between last user interaction and auto-shutdown. The fraction is close to unity if the user spent the time duration using/watching/ reading output from application without entering a command that would prevent the auto-shutdown, close to zero if the attention of the user was immediately shifted to another task after the last user interaction (i.e. changing diapers on a screaming baby), or a fraction in-between. There is a widely known body of literature to those in the art, sometimes referred to as

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“chunking literature,” that attempts to establish a relationship between user cognitive events and the observable interactions between computers and humans as evidenced by Santos (1994).

Regarding claims 8, 14, and 20, Benc teaches a method for monitoring application usage in a palm-sized computer system (page 1, line 1 and 18-20).

Official action is taken that it is old well known to one of ordinary skill in the art that a PalmPilot™ organizer is a palm-sized computer system.

Regarding claims 9, 15, and 21, Benc teaches a method for monitoring application usage in a plurality of PalmPilot™ organizer electronic devices (page 1, lines 18-20).

Official action is taken that it is old well known to one of ordinary skill in the art that a PalmPilot™ organizer is a palm-sized computer system compatible with the PalmOperating® platform. It is also well known that some cellular phones are also based on the PalmOperating® platform and will run applications compatible with this platform (as evidenced by the Qualcomm pdQ™ cellular phone). It is obvious to one of ordinary skill in the art that the usage program taught by Benc and Coons as well as applications used on PalmPilot™ organizers would be candidate applications to be used on some cellular phones.

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Regarding claims 23-24, Benc teaches a method and a system for monitoring application usage in one or many Palm Computing® organizer electronic devices and transmit/ export usage data/ statistics to be tabulated on a personal computer (page 1, lines 11-13 and 17-20).

Benc does not teach that the data can be further transmitted from a personal computer to a server.

Official action is taken that a software program method that can transmit data to a host computer to be tabulated can be modified using widely known information technology to have the host computer transmit the same information to a server for tabulating and publishing on the Internet without user manual intervention.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Benc Software's usage application to create a system and method to gather and store usage statistics data from electronic device(s), and transmit the data to a host computer before transmitting the usage data to a server to be tabulated and published on the Internet for the advantage of analysis efficiency.

**8. Claims 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benc as applied to claims 22 and 26 and in further view of Lowell.**

Regarding claims 25 and 27, Benc teaches a method for monitoring application usage in one or a plurality of electronic devices and the usage data is transmitted to a server.

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Benc does not teach a method comprising the step of:

- crediting value to an account corresponding to a user of at least one of the said electronic devices.

Lowell teaches a method and apparatus for tracking computer usage over a network and the step of:

- crediting value to an account corresponding to a user of at least one of the said electronic devices (column 7, lines 1-3).

Benc and Lowell are analogous in the art of monitoring usage data for electronic devices. It would be obvious to one of ordinary skill in the art to combine the teachings of Benc and Lowell to monitor and store the usage statistics from an electronic device and reward the user for allowing the personal information to be collected for the advantage of encouraging users to share information.

**9. Claims 5, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benc as applied to claims 1, 10, and 16 and in further view of Watch-Ya! (2000).**

Regarding claim 5, 13, and 19, Benc teaches a method for monitoring application usage in one or a plurality of electronic devices and the usage data is transmitted to a server.

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Benc does not teach for at least one application the storing/ gathering of data including a:

- First duration of usage when the electronic device runs on batteries.
- Second duration of usage when the device is connected to an external source of power.

Watch-Ya! teaches storing/ gathering usage data related to the battery usage of application(s) (page 3, lines 3, 11-13, and 20).

Official notice is that it is well known to one of ordinary skill in the art at the time of invention that different applications consume energy at greater rates than others and this relationship and is considered by developers when designing battery management techniques... as evidenced by U.S. Patent 5,623,647 (Maitra).

Benc and Watch-Ya! are analogous in the art of providing usage data for electronic devices. It would be obvious to one of ordinary skill in the art to combine the teachings of Benc and Watch-Ya! to store/ gather/ measure for at least one application a:

- First duration of usage when the electronic device runs on batteries.
- Second duration of usage when the device is connected to an external source of power.

The advantage to combining the teachings of Benc and Watch-Ya! is to improve the efficiency of developers.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Citrix (1999) teaches a system and method for automatically monitoring and displaying application usage data including usage counts, application start and end times, active vs. loaded times, session use per day, session lengths, etc.

b) Hilbert (1998) teaches a method for automatically collecting information regarding application usage on an ongoing basis over the Internet.

c) Orfali (1999) teaches that information can be transmitted from a computer-to-computer, computer-to-server, or server-to-server automatically without user manual intervention as evidenced by widely used data replication techniques (p. 274-287).

d) Qualcomm.pdQ™ Cellular Phone Spec Sheet (1999) teaches a cellular phone that will run applications compatible with the Palm computing® platform (page 2, lines 6-7).

e) Santos (1994) teaches research into the relationship between computer-human interaction events and the user's cognitive activity. The research focuses on the period when the user generally does not physically interact with the computer and attempts to determine his/ her cognitive activities or object of attention.

f) Pivowar (1999) teaches transferring information from PDA(s) linked to host computer(s) to a centralized server via the Internet.

g) Coons (2000) teaches a method and system for remotely storing usage data associated with monitored assets.


h) Hawkins (1998) teaches a method and system for allowing applications on a handheld computer system to share information with a personal computer, particularly those that involve information formatted/ tabulated as databases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Bylcw whose telephone number is 571-272-8125. The examiner can normally be reached on weekdays, 8AM-5PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB SB 6/25/2005

  
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